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Attorney for Chapter 11 Debtor BR Enterprises

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
(SACRAMENTO DIVISION)

In re:

BR ENTERPRISES, a California General  
Partnership,

Debtor.

Case No. Case No. 15-21575-A-11

Motion No. HLC-14

**ORDER CONFIRMING THIRD  
AMENDED CHAPTER 11 PLAN**

Confirmation Hearing Date: 11/30/2015

Time: 10:00 a.m.

Dept: "A" (Courtroom 28)

U.S. Federal Courthouse

501 I Street, 7<sup>th</sup> Floor

Sacramento, CA 95814

On November 30, 2015, a hearing was held in confirmation of the Third Amended Plan of Reorganization (the "Plan") filed November 23, 2015, by Chapter 11 Debtor BR Enterprises (hereinafter "Debtor"). Appearances were noted on the record and separate findings of fact and conclusions of law (the "Findings") were recited thereon.

Consistent with the Findings,

**IT IS HEREBY ORDERED THAT:**

RECEIVED

November 30, 2015

CLERK, U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
0005680605

1                   1.           The Plan be and is hereby confirmed in the form attached hereto as  
2 **Exhibit "A."**

3  
4  
5 **IT IS SO ORDERED.**

6  
7 Dated: December 01, 2015

By the Court

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9   
10 Michael S. McManus  
11 United States Bankruptcy Judge  
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26 **EXHIBIT "A"**  
27 **[DEBTOR'S THIRD AMENDED CHAPTER 11 PLAN OF REORGANIZATION]**  
28  
29

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Attorney for Chapter 11 Debtor

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
(SACRAMENTO DIVISION)

In re:	)	Case No. 15-21575-A-11
	)	
BR ENTERPRISES, a California	)	DCN: N/A
General Partnership,	)	
	)	<b>DEBTOR'S THIRD AMENDED</b>
	)	<b>CHAPTER 11 PLAN OF</b>
Debtor.	)	<b>REORGANIZATION</b>
	)	<b>[November 23, 2015]</b>
	)	
	)	Hearing Date: 11/30/2015
	)	Time: 10:00 a.m.
	)	Dept: "A" (Courtroom 28)
	)	U.S. Federal Courthouse
	)	501 I Street, 7 <sup>th</sup> Floor
	)	Sacramento, CA 95814
	)	

1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, ALL  
 2 STATEMENTS IN THIS PLAN OF REORGANIZATION (THE "PLAN") AND THE  
 3 ACCOMPANYING DISCLOSURE STATEMENT (THE "DISCLOSURE STATEMENT")  
 4 CONCERNING THE HISTORY OF THE DEBTOR'S BUSINESS, ITS PAST OR PRESENT  
 5 FINANCIAL CONDITION, TRANSACTIONS TO WHICH THE DEBTOR WAS OR IS A  
 6 PARTY, OR THE EFFECT OF CONFIRMATION OF THE PLAN ON SECURED  
 7 CREDITORS, UNSECURED CREDITORS OR EQUITY SECURITY HOLDERS ARE  
 8 ATTRIBUTABLE EXCLUSIVELY TO THE DEBTOR AND NOT TO COUNSEL TO THE  
 9 DEBTOR. COURT APPROVAL OF THE DISCLOSURE STATEMENT DOES NOT  
 10 CONSTITUTE A FINDING BY THE COURT THAT THE INFORMATION PROVIDED BY  
 11 THE DEBTOR AND CONTAINED IN THE DISCLOSURE STATEMENT IS ACCURATE.

## 12 Article I

### 13 Definitions

14 The definitions contained in the Bankruptcy Code are incorporated herein.  
 15 Whether or not inconsistent with the definitions contained in the Bankruptcy Code, the following  
 16 terms used in the Plan of Reorganization shall have the following meanings:

17 1.01. Allowed Administrative Claim: An Allowed Claim relating to the  
 18 administration of the Case pursuant to Sections 503(b) and/or 507(a)(2) of the Code, including,  
 19 without limitation, any fees of professionals employed in this Case which have been approved by  
 20 the United States Bankruptcy Court, and any quarterly fees owing to the Office of the United  
 21 States Trustee.

22 1.02. Allowed Claim: A Claim against Debtor or the Estate that has not been  
 23 satisfied prior to the Effective Date, and is specifically designated as an Allowed Claim in the  
 24 Plan, or arose or is deemed to have arisen before the Effective Date, and to the extent it is either  
 25 (a) scheduled in the list of creditors prepared or filed with the Court by the Debtor and not listed  
 26 as disputed, contingent or unliquidated as to amount, or (b) with respect to which a proof of claim  
 27 has been filed by the Bar Date with the Court and as to which no objections have been filed by  
 28 the (Claim Objection) Bar Date (see paragraph 1.11, below, and paragraph 9.04 of the Plan), or as  
 to which any such objection has been determined by an order or judgment which has become  
 final. If the claim arose after the Petition Date, (1) the claim is of a kind that can be voluntarily  
 paid from the Estate without specific Court approval and is so paid within the later of 60 days  
 after the Effective Date or 60 days after all materials that must be filed with or issued by the  
 Court as a prerequisite to payment of the claim have been properly filed and served or issued or  
 (2) the claim has been allowed by Final Order. Notwithstanding the foregoing, and except as

1 otherwise provided in the Plan, no claim shall be deemed an Allowed Claim if such Claim  
 2 includes attorneys' fees, default interest, late penalties or similar charges or costs of any kind,  
 3 accrued or incurred post-petition, unless the same have been approved by the Court, in  
 4 accordance with the procedure set forth in Article IX, §9.01 of the Plan.

5 1.03. Allowed Guaranteed Unsecured Claims: An Allowed Unsecured Claim  
 6 arising from the guarantee by Debtor on account of a claim against a third party.

7 1.04. Allowed Priority Claim: An Allowed Claim entitled to priority pursuant  
 8 to Bankruptcy Code §§507(a) (4), (5), (6), (7), (9) or (10).

9 1.05. Allowed Priority Tax Claim: An Allowed Claim entitled to priority  
 10 pursuant to Sections 507(a)(8) of the Code, including but not limited to any claim for a priority  
 11 tax that was not assessed against Debtor until after the Petition Date as provided at Bankruptcy  
 12 Code §502(i).

13 1.06. Allowed Secured Claim: An Allowed Claim secured by a lien, security  
 14 interest or other charge against property in which this estate has an interest, or which is subject to  
 15 set off under Bankruptcy Code §553, to the extent of the value - determined in accordance with  
 16 Bankruptcy Code §506(a) - of the interest in such property, or such secured claim in the estate's  
 17 interest in such property, or to the extent of the amount subject to any set off, as the case may be.  
 18 Except as otherwise provided in the Plan, unpaid principal and all accrued interest shall be  
 19 computed and aggregated as of the Confirmation Date and shall thereafter bear interest as  
 20 provided for in the Plan or as allowed under applicable law or loan documents, whichever is  
 21 applicable. Notwithstanding the foregoing, and except as otherwise provided in this Plan, no  
 22 claim shall be deemed an Allowed Secured Claim if such Claim includes attorneys' fees, default  
 23 interest, late penalties or similar charges or cost of any kind, accrued or incurred post-petition,  
 24 unless the same has been expressly provided for in this Plan, or approved by the Court in  
 25 accordance with the procedure set forth in Article IX, §9.01 of the Plan.

26 1.07. Allowed Unsecured Claim: Allowed Claims against the Debtor for which  
 27 there are no assets of the Debtor serving as security, but excluding any Allowed Priority Claims.

28 1.08. Bankruptcy Code or Code: Title 11 of the United States Code, as  
 amended. All citations in this Plan to section numbers are to the Bankruptcy Code unless  
 otherwise expressly indicated.

1.09. Bankruptcy Court or Court: The United States Bankruptcy Court for the  
 Eastern District of California or such successor court or tribunal as may hereafter be confirmed or

1 created by lawful authority with power to confirm reorganization plans under Chapter 11, Title  
2 11, United States Code and all other applicable statutes, rules and regulations.

3 1.10. Bankruptcy Rules or Rules: The Federal Rules of Bankruptcy Procedure,  
4 as amended, and the local Bankruptcy Rules, as adopted, by the Court for use in the United States  
5 Bankruptcy Court for the Eastern District of California.

6 1.11. Bar Date: The term "Bar Date" refers to the deadline for filing proofs of  
7 Claims in this case, which deadline is June 25, 2015 for non-governmental creditors, and August  
8 26, 2015 for governmental units.

9 1.12. Claim: The term "Claim" means: (A) right to payment, whether or not such  
10 right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured,  
11 disputed, undisputed, known, unknown, legal, equitable, secure, or unsecured; or (B) right to an  
12 equitable remedy for breach of performance if such breach gives rise to a right to payment,  
13 whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent,  
14 matured, unmatured, disputed, undisputed, known, unknown, secured, or unsecured.

15 1.13. Confirmation Date: The date upon which an order confirming the Plan is  
16 entered by the Clerk on the Court docket.

17 1.14. Debtor: BR Enterprises, a California General Partnership, in its capacity  
18 as Chapter 11 Debtor-in-possession (pre-confirmation/Effective Date) or as a Revested Debtor  
19 under a confirmed Chapter 11 Plan (post-confirmation/Effective Date).

20 1.15. Disclosure Statement: The Disclosure Statement prepared by the Debtor  
21 as required by Section 1125 of the Code and approved by an order of the Court.

22 1.16. Disallowed Claim: As used herein, the term "Disallowed Claim" means  
23 a Claim against Debtor or the Estate that is specifically designated as a Disallowed Claim in the  
24 Plan or by the Court, or arose or is deemed to have arisen before the Effective Date, to the extent  
25 that it is either (a) not scheduled in the list of creditors prepared or filed with the Court by the  
26 Debtor or accompanied by a proof of claim filed prior to the Claims Bar Date, (b) listed in the  
27 schedule of creditors filed by the Debtor with the Court as "disputed," "contingent" or  
28 "unliquidated" as to amount, and/or (c) with respect to which a proof of claim has been timely  
filed with the Court, (1) the proof of claim was not filed on or before the Claims Bar Date, or (2)  
the proof of claim was filed on or before the Claims Bar Date but an objection to the allowance  
thereof has been timely filed and sustained by final order of the Court. If the claim arose after the  
Petition Date, (1) the claim is of a kind that cannot be voluntarily paid from the Estate without

1 specific Court approval and has not been paid within the later of 60 days after the Effective Date  
2 or 60 days after all materials that must be filed with or issued by the Court as a prerequisite to  
3 payment of the Claim have been properly filed and served or issued or (2) the claim has been  
4 disallowed by Final Order. Moreover, all claims for reimbursement or contribution against  
5 Debtor made by any co-debtor which was contingent as of the Petition Date shall be  
6 automatically disallowed effective as of the Confirmation Date pursuant to Bankruptcy Code  
§502(e).

7 1.17. Disputed Claims: As used herein, the term "Disputed Claims" refers to  
8 all Claims which Debtor intends to disallow in full or in part, including but not limited to the  
9 Claims referenced at Article VI of the Disclosure Statement.

10 1.18. Effective Date: The Effective Date of this Plan shall be the thirtieth (30th)  
11 calendar day following the entry of a Final Order confirming the Plan.

12 1.19. Final Order: The term "Final Order" means an order, including but not  
13 limited to a judgment, of the Bankruptcy Court, the District Court, any Appellate Court, Court of  
14 Appeal, or other judicial entity, as to which (a) any appeal that has been taken has been finally  
15 determined or dismissed, or (b) the relevant time for appeal has expired and a notice of appeal has  
not been filed timely.

16 1.20. Guaranteed Claims: Claims of third parties guaranteed by Debtor.

17 1.21. Income: As used herein, the term "Income" means all consideration  
18 constituting Property of the Estate paid to and received by Debtor during the Plan Term.

19 1.22. Petition Date: February 27, 2015.

20 1.23. Plan: The Debtor's Chapter 11 Plan of Reorganization, in its entirety and  
21 all addenda, exhibits, schedules, releases and other attachments thereto, as the same may be  
amended or supplemented from time to time and any amendment or modification thereof.

22 1.24. Plan Term. The term "Plan Term" refers to the duration of the Plan, which,  
23 in this case, begins on the Petition Date and ends on the earlier of (i) Sixty (60) months from the  
Confirmation Date, or (ii) the date Debtor makes the last payment required under the Plan.

24 1.25. "Property of the Estate": The definition of "Property of the Estate" set  
25 forth at Bankruptcy Code §541 is incorporated herein by reference. In summary, Property of the  
26 Estate includes, but is not limited to, any and all rights, entitlements, claims, and/or causes of  
27 action, including rights of setoff or equitable, injunctive, or declaratory relief, against any other  
28 Person and/or property, including rights of indemnity and/or contribution, regardless of whether

such claims, rights, entitlements, or causes of action are liquidated, unliquidated, contingent, noncontingent, disputed, undisputed, and/or barred or unenforceable for any reason, and includes all property, including earnings, acquired between the Petition Date and the date the case is closed, dismissed or converted, whichever occurs first.

1.26. "Real Estate": As used herein, the term "Real Estate" means all interests of the Debtor in real property as of the Petition Date.

1.27. Unclassified Claims: The allowed amount of:

- (i) All Allowed Administrative Claims, and
- (ii) All Allowed Priority Tax Claims.

1.28. Unsecured Claims: Claims against the Debtor for which there are no assets of the Debtor serving as security, but excluding any Allowed Administrative Claims, Allowed Priority Claims, and Allowed Priority Tax Claims.

## Article II

### Administrative Expenses And Unclassified Claims

2.01 Unless the holder of a particular Claim agrees otherwise, all Allowed Administrative Claims, and U.S. Trustee Fees (payable through the Confirmation Date under 28 U.S.C. §1930) shall be paid by the Debtor in full, in cash, by no later than the Effective Date or, if not allowed until after the Effective Date, within fifteen (15) calendar days following the entry of a Court order approving such payment. Claims for pre-confirmation Administrative Claims not previously allowed by the Court, must be filed with the Court and served on counsel for the Debtor by the 60th calendar day following the Effective Date or shall be conclusively deemed waived and forfeited.

2.02 Allowed Priority Tax Claims: Holders of any Allowed Priority Tax Claims arising under §507(a)(8) will receive payment in full by no later than five (5) years after the Petition Date by way of deferred cash payments. The balance owed on said claims shall be paid, at the latest, in equal quarterly installments of principal and interest, with the first payment being due on the 15th day of the first full calendar quarter following the Effective Date. Debtor may pre-pay these tax claims.



1 **Article III**

2 **Classification of Claims and Interests**

3 3.01 Each Creditor should carefully read both this Plan and the accompanying  
4 Disclosure Statement to determine into which particular class such creditor's claim fits and how  
5 the claims in that particular class are treated by the Plan. To the extent it is determined that  
6 certain Creditors are not impaired, such Creditors shall be deemed to have accepted the Plan.

7 3.02 For the purposes of classifying the Debtor's obligations created under the Plan, the  
8 claims and interest of the creditors of the Debtor are classified as follows:

9 3.02(a) Unclassified Claims: The following Unclassified Claims shall be  
10 treated, but shall not necessarily be entitled to vote under this Plan:

- 11 • Professional Fees & Costs allowed per Bankruptcy Code §507(a)(2):
  - 12 ○ Hollister Law Corporation (Debtor's Authorized Bankruptcy Counsel)
    - 13 ▪ Estimated at \$75,000
  - 14 ○ Evanhoe Kellogg & Co (Debtor's Authorized Certified Public Account)
    - 15 ▪ Estimated at \$5,000
  - 16 ○ Properties by Merit, Inc. & Keller Williams Realty (Debtor's Authorized  
17 Brokers/Realtors)
    - 18 ▪ Estimated at \$0 (Paid current as each escrow closes)
- 19 • Deposits allowed per Bankruptcy Code §507(a)(7) [maximum of \$2,775]
  - 20 ○ None
- 21 • Unsecured Priority Tax Claims of Government Units allowed by Bankruptcy Code  
22 §507(a)(8)
  - 23 ○ Internal Revenue Service (\$100 – Claim #1 – Disputed)

24 3.02(b) Class 1: (Redding Bank of Commerce) Class 1 is comprised  
25 of the Allowed Secured Claims of Redding Bank of Commerce. This Class 1 Creditor is  
26 impaired.

27 3.02(c) Class 2: (Central Valley Community Bank) Class 2 consists of the  
28 allowed claim of Central Valley Community Bank. This Class 2 Creditor is impaired.

3.02(d) Class 3: (Joe & Lavonne Curto Family Trust) Class 3 consists of  
Joe & Lavonne Curto Family Trust. This Class 3 Claimant is *not* impaired.

3.02(e) Class 4(a): (Tehama County Tax Collector) Class 4(a) is

1 comprised of the Allowed Secured Claims, if any, of the Tehama County Tax Collector on  
 2 account of real property taxes assessed against the Real Estate. This Class 4 Claimant is *not*  
 3 impaired.

4 3.02(f) Class 4(b): (Riverside County Tax Collector) Class  
 5 4(b) is comprised of the Allowed Secured Claims, if any, of the Riverside County Tax Collector  
 6 on account of real property taxes assessed against the Real Estate. This Class 4(b) Claimant is  
 7 *not* impaired.

8 3.02(g) Class 5: (Contingent Unsecured Claims) Class 5 consists of the  
 9 disputed contingent unsecured claim of Hank Spacone, Trustee of Shasta Enterprises, a California  
 10 partnership as such claim may be amended from time to time. This Class is impaired.

11 3.02(h) Class 6(a): (Allowed Unsecured Convenience Class Creditors)  
 12 Class 6(a) consists of creditors whose claims total less than \$2,500.00 or who voluntarily reduce  
 13 their claims to \$2,500.00. This Class is unimpaired.

14 3.02(i) Class 6(b): (General Unsecured Claims) Class 6(b) consists of  
 15 all Allowed Unsecured Claims not treated in any other Class, including any deficiency claims of  
 16 holders of Allowed Secured Claims. This Class is impaired.

17 3.02(j) Class 7: (Equity) Class 7 consists of all interests of Debtor's  
 18 General Partners, Antonio Rodriguez Jr. and Antonio Rodriguez III in the Debtor. This Class is  
 19 unimpaired.

## 20 Article IV

### 21 Impairment of Claims

22 Classes 1 (Redding Bank of Commerce), 2 (Central Valley Community Bank), 5 (Hank  
 23 Spacone, Trustee) and 6(b) (General Unsecured Claims) are impaired as that term is defined at 11  
 24 U.S.C. §1124.

## 25 Article V

### 26 Plan Assumptions

27 This Plan is predicated upon the following assumptions, in addition to the assumptions  
 28 underlying the Operating Budget referenced at Article VII of the Disclosure Statement:

5.01 Debtor will be able to pay all post-bankruptcy obligations and operating  
 expenses as they come due, including all taxes including but not limited to real estate taxes and

1  
2 payroll taxes, homeowner association dues, employee wages, administrative overhead, and other  
3 payments to creditors required during the Plan Term from ongoing lease and/or sales of Real  
4 Estate;

5 5.02 Debtor will continue to market and sell (or endeavor to refinance) so much  
6 of the Real Estate as is necessary to fund the Plan during the Plan Term.

7 5.03 All Allowed Claims of creditors will be paid in full within five years of the  
8 Effective Date either through the sale or refinancing of the real and/or personal property of the  
9 estate, with the exception that all Allowed Secured Claims (Classes 1 through 3) shall be paid in  
10 full within two years of the Effective Date, with amortized monthly interest-only payments to be  
11 made in the interim commencing on the Effective Date as provided in the Plan.

12 5.04 Debtor will generate a minimum of \$450,000 net of closing costs and liens  
13 annually during the Plan Term from the sale of Sunset Hills Subdivision Lots.

14 5.05 The Bankruptcy Code requires a discussion of the "potential material  
15 Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical  
16 investor typical of the holders of claims or interest in the case, that would enable such a  
17 hypothetical investor of the relevant class to make an informed judgment about the plan." 11  
18 U.S.C. §1125(a)(1). Debtor is a general partnership organized and maintained under the laws of  
19 the State of California, and therefore Debtor assumes that all profits and losses realized during the  
20 Plan Term will be passed through to its partners the same as they did prior to the Petition Date.  
21 Consequently, Debtor does not expect to be directly impacted by taxable events triggered by the  
22 liquidation of assets under the Plan. Notwithstanding the foregoing, Creditors are encouraged to  
23 consult with a qualified tax professional and should not rely upon any statements by the Debtor  
24 (not a tax expert) regarding possible tax consequences either to the Debtor or to Creditors under  
25 this Plan. Any distribution made pursuant to the terms of any confirmed plan would be net of (i.e.,  
26 after payment in full of) any tax imposed upon the bankruptcy Estate or its partners. Consequently,  
27 any distribution to creditors under the confirmed plan may be considered taxable income to such  
28 creditors by taxing authorities, and may have to be disclosed as such when required by applicable  
law to entitled taxing authorities by the beneficiary of any plan payment. More specific tax  
assumptions are contained in the Liquidation Analysis at Article XIV of the Disclosure Statement.

1 **Article VI**

2 **Treatment of Impaired Classes**

3

4 **6.01 Impaired Classes Generally.** Classes 1 (Redding Bank of Commerce), 2 (Central  
 5 Valley Community Bank), 5 (Hank Spacone, Trustee) and 6(b) (General Unsecured Claims) are  
 6 impaired under this Plan. In no event will Debtor distribute to the holder of any Allowed Claim  
 7 more or less than one hundred percent (100%) of the amount of such Allowed Claim, inclusive of  
 8 interest thereon. All impaired classes of claims and classes of interest shall receive the  
 9 distributions set forth in this Article on account of and in complete satisfaction of all such  
 10 Allowed Claims (and any interest accrued thereon). Without limiting the foregoing and effective  
 11 upon the Effective Date, each creditor and each equity security holder (or their successors) shall  
 12 be deemed to have assigned to the Debtor and all such parties shall be deemed to have waived,  
 13 relinquished and released any and all of their rights and claims against the Debtor, other than as  
 14 provided for in the Plan or the Court's order confirming the Plan.

15 **6.02 Class 1 (Allowed Secured Claim of Redding Bank of Commerce)**

16 Class 1 is comprised of the Allowed Secured Claims of Redding Bank of Commerce ("RBC").  
 17 Class 1 is further subdivided into Class 1-A, and Class 1-B. Both Class 1-A and Class 1-B are  
 18 impaired under this Plan.

19 **Class 1-A.** Class 1-A is the Allowed Secured Claim of RBC represented by Proof of  
 20 Claim No. 7, referencing Loan No. 3160610 which RBC extended pre-petition to Debtor ("Claim  
 21 No. 7" or the "Cottonwood Creek Ranch Loan").

22 Claim No. 7 shall be deemed allowed in full in the amount of \$1,835,627.73  
 23 accrued and unpaid as of February 27, 2015, consisting of \$1,802,437.12 in principal, \$21,487.78  
 24 in interest, \$2,000.00 in late charges, and \$9,702.83 in trustee's fees and foreclosure costs.

25 Upon the Confirmation Date, the Cottonwood Creek Ranch Loan shall continue to  
 26 be secured by the 1<sup>st</sup> priority deed of trust recorded September 17, 2009 against that real property  
 27 commonly described as Cottonwood Creek Ranch - Phase II, 20500 Lake California Drive,  
 28 Cottonwood, California [approximately 279 acres consisting of Tehama County Assessor's Parcel  
 Nos. 004-140-73; 004-140-75; and 004-140-86].

1  
2 Upon the Confirmation Date, the Cottonwood Creek Ranch Loan shall be deemed  
3 to be fully secured, and BR Enterprises and its partners waive any right to seek to bifurcate the  
4 Cottonwood Creek Ranch Loan pursuant to Bankruptcy Code §506 or otherwise.

5 Interest shall accrue on the unpaid principal balance of the Cottonwood Creek  
6 Ranch Loan from February 27, 2015 through and including the Confirmation Date at 5.25% per  
7 annum. No late charges, nor default interest, nor pre-confirmation attorneys fees shall be  
8 assessed to the Cottonwood Creek Ranch Loan for the period from February 27, 2015 to and  
9 including the Confirmation Date. For example, assuming the Confirmation Date is December 2,  
10 2015, the accrued post-filing interest will be \$73,073.80.

11 As of the Confirmation Date, all pre-petition and post-petition accrued and unpaid  
12 interest, all pre-petition late charges, and all foreclosure trustee fees and expenses shall be added  
13 to the principal balance of the Cottonwood Creek Ranch Loan. As of the Confirmation Date, and  
14 continuing until the Cottonwood Creek Ranch Loan is paid in full, the re-capitalized Cottonwood  
15 Creek Ranch Loan shall bear non-default interest at the fixed rate of 5.25% per annum.

16 Commencing on the earlier of January 2, 2016 or the Effective Date, and  
17 continuing on the same day of each month thereafter, BR Enterprises shall tender to RBC for  
18 application to the Cottonwood Creek Ranch Loan monthly payments of not less than interest-  
19 only. For example only, assuming the Cottonwood Creek Ranch Loan totals \$1,908,701.53 as of  
20 the Confirmation Date, the minimum monthly interest-only payment will be \$8,350.57.

21 From and after the Confirmation Date, Debtor shall take all necessary and  
22 reasonable steps required to maintain and preserve the collateral for the Cottonwood Creek Ranch  
23 Loan and Debtor shall make the following adequate protection payments to or for the benefit of  
24 RBC: (1) timely payment of all real property taxes assessed against the collateral for the  
25 Cottonwood Creek Ranch Loan as such taxes are due and payable without penalty, and (2)  
26 monthly interest payments as provided for above.

27  
28 Promptly following the Effective Date, RBC shall rescind the Notice of Default

1 recorded August 29, 2014 and the Notice of Sale recorded on or about February 4, 2015, 2014  
2 against the real property commonly described as Cottonwood Creek Ranch - Phase II. Such  
3 rescission shall not prejudice RBC's rights to record a subsequent notice of default nor a  
4 subsequent notice of sale as to the collateral for the Cottonwood Creek Ranch Loan in the event  
5 of a default first occurring subsequent to the Confirmation Date.

6 The Cottonwood Creek Ranch Loan shall continue to be additionally secured by  
7 the approximately 2,600 acres owned by BR Enterprises which includes Tehama County  
8 Assessor's Parcel Nos. 004-140-78; 004-140-83; 006-200-33; 009-150-12; 007-070-09; 007-070-  
9 07; 007-070-24; 009-150-13; 009-490-06; and 006-200-30.

10 Upon the Effective Date, the Cottonwood Creek Ranch Loan and the Accumulated  
11 Deficiency Claim (defined below) shall not be deemed cross-defaulted, and RBC may not declare  
12 a default under one of such obligations based upon a default under the other obligation.

13  
14 As of the Effective Date, the Cottonwood Creek Ranch Loan shall be fully due and  
15 payable on or before 24 months following the Effective Date, unless earlier accelerated due to a  
16 default in the minimum monthly payments or other default under the loan documents, except that  
17 neither (i) the "belief the prospect of payment of the indebtedness is impaired," nor (ii) the future  
18 death, insolvency, lawsuit against and/or bankruptcy of any of Debtor's general partners shall  
19 constitute an "event of default" under the governing loan documents.

20 Upon the Effective Date, the exclusive remedy for collection of the Cottonwood  
21 Creek Ranch Loan shall be exercise of the non-judicial trustee's sale procedures established under  
22 the deeds of trust and California law. Upon the Effective Date, Bank shall be deemed to have  
23 waived the right to bring a judicial foreclosure action to collect the Cottonwood Creek Ranch  
24 Loan, and additionally waived the right to proceed individually against the general partners of BR  
25 Enterprises to collect all or any portion of the Cottonwood Creek Ranch Loan.

26 In the event Debtor elects to consummate a sale of the real property collateral  
27 described in Section 6.02.01.02, and either or both the Cottonwood Creek Ranch Loan and the  
28 Accumulated Deficiency Claim have not earlier been paid in full, the proceeds of sale of such real

1 property collateral shall be disbursed directly from escrow as follows:

- 2
- 3 • First, payment of real estate brokerage fees, escrow costs and fees, documentary transfer
- 4 taxes, and other normal and customary reasonable costs and expenses of sale;
- 5 • Second, real property taxes and assessments, prorated to close of escrow;
- 6 • Third, repayment in full of the then-outstanding balance of the Cottonwood Creek Ranch
- 7 Loan;
- 8 • Fourth, to the extent monies then remain, up to \$350,000.00 to Debtor;
- 9 • Fifth, to the extent monies then remain, repayment in full of the then-outstanding balance
- 10 of the Accumulated Deficiency Claim; and,
- 11 • Sixth, to the extent monies then remain, to Debtor.

12 Upon reasonable confirmation that the proceeds of such sale shall be disbursed directly from  
 13 escrow exclusively as set forth above, and that the proceeds of such sale shall be sufficient to at  
 14 least result in payment in full of the Cottonwood Creek Ranch Loan, RBC shall execute and  
 15 deliver to escrow a reconveyance of its deed of trust encumbering the real property collateral  
 16 described in Section 6.02.01.02 above.

17 In the event RBC does not timely receive the minimum monthly payments  
 18 required on account of the Cottonwood Creek Ranch Loan following the Confirmation Date, or in  
 19 the event the Cottonwood Creek Ranch Loan is not paid in full within 24 months following the  
 20 Effective Date, Bank shall provide to BR Enterprises and its then counsel of record, if any, via  
 21 first class mail and e-mail, a written notice of default and demand for cure. In the event the  
 22 defaults identified in such written notice are not fully cured within 20 calendar days following the  
 23 date such notice is sent, RBC may immediately and without further notice record notice of default  
 24 against the collateral for the Cottonwood Creek Ranch Loan and otherwise proceed to foreclose  
 25 on such collateral in accordance with California law and this Plan of Reorganization.

26 In the event that on or after 20 months following the Effective Date Debtor has not  
 27 entered into a bona fide purchase and sale agreement providing for a sale of the Cottonwood  
 28 Creek Ranch Phase II real property in an amount sufficient to payoff in full the then-remaining  
 balance of the Cottonwood Creek Ranch Loan on or before 24 months following the Effective



1 Date, and an escrow for consummation of such proposed sale has not been opened and remains  
2 open, RBC may, without further notice, record notice of default against the collateral for the  
3 Cottonwood Creek Ranch Loan and otherwise proceed to foreclose on such collateral in  
4 accordance with California law and this Plan of Reorganization, except that no such foreclosure  
5 sale shall be scheduled or held earlier than 24 months following the Effective Date.

6 Debtor and RBC agree to execute and deliver to each other such other documents  
7 as may be reasonably required to document or perfect the terms and conditions of this Plan of  
8 Reorganization and the treatment of Claim No. 8 and the Accumulated Deficiency Claim,  
9 including without limitation, a "Change In Terms Agreement" to be prepared by RBC.  
10 Notwithstanding such, it is not the intention of Debtor nor RBC to re-document the entire  
11 relationship between the parties.

12 In the event of any discrepancy or conflict with regard to the treatment of Claim  
13 No. 7 or the Cottonwood Creek Ranch Loan between this Section 6.02.01 and any other terms  
14 and conditions of the Plan of Reorganization, this Section 6.02.01 shall control.

15 **Class 1-B.** Class 1-B is the Allowed Secured Claim of RBC represented by Proof of  
16 Claim No. 8, ("Claim No. 8" or "the Accumulated Deficiency Claim").  
17

18 Claim No. 8 shall be deemed allowed in full in the amount of \$1,400,000.00 as of  
19 the Confirmation Date, inclusive of all interest, late charges, trustee's fees, attorneys fees, and  
20 other collection costs which may have been incurred pre-confirmation.

21  
22 Upon the Confirmation Date, the Accumulated Deficiency Claim shall continue to  
23 be secured by the first priority deed of trust recorded August 15, 2013 against the approximately  
24 2,600 acres owned by BR Enterprises which includes Tehama County Assessor's Parcel Nos.  
25 004-140-78; 004-140-83; 006-200-33; 009-150-12; 007-070-09; 007-070-07; 007-070-24; 009-  
26 150-13; 009-490-06; and 006-200-30.

27 Upon the Confirmation Date, the Accumulated Deficiency Claim shall be deemed  
28 to be fully secured, and BR Enterprises and its partners waive any right to seek to bifurcate the



1 Accumulated Deficiency Claim pursuant to Bankruptcy Code §506 or otherwise.

2  
3 From and after the Confirmation Date, the Accumulated Deficiency Claim, as  
4 modified by this Plan of Reorganization, shall initially bear non-default interest at the fixed rate  
5 of 3.25% per annum. In the event the Accumulated Deficiency Claim has not been paid in full by  
6 December 20, 2016, the Accumulated Deficiency Claim shall bear non-default interest at the rate  
7 of 6.25% per annum from and after the Confirmation Date, and a lump-sum payment of the  
8 accumulated additional interest in the amount of \$42,000.00 shall be due on or before January 2,  
9 2017.

10 Commencing on the earlier of January 2, 2016 or the Effective Date, and  
11 continuing on the same day of each month through December, 2016, BR Enterprises shall tender  
12 to RBC for application to the Accumulated Deficiency Claim minimum monthly interest-only  
13 payments of \$3,791.67. In the event the Accumulated Deficiency Claim has not been paid in full  
14 by December 20, 2016, commencing with the monthly payment day in January, 2017 and  
15 continuing on the same day each month until paid in full, Debtor shall tender to RBC for  
16 application to the Accumulated Deficiency Claim minimum monthly interest-only payments  
17 computed at the interest rate of 6.25% per annum.

18 In the event that on or before December 20, 2016 Debtor tenders to RBC the  
19 principal sum of \$1,200,000.00, plus the interest accrued on the Accumulated Deficiency Claim  
20 from and after the Confirmation Date, RBC shall discount the principal balance of the  
21 Accumulated Deficiency Claim by \$200,000.00, and the Accumulated Deficiency Claim shall be  
22 deemed paid in full.

23 From and after the Confirmation Date, Debtor shall take all necessary and  
24 reasonable steps required to maintain and preserve the collateral for the Accumulated Deficiency  
25 Claim and Debtor shall make the following adequate protection payments to or for the benefit of  
26 RBC: (1) timely payment of all real property taxes assessed against the collateral for the  
27 Accumulated Deficiency Claim as such taxes are due and payable without penalty, and (2)  
28 monthly interest payments as provided for above.

1           Upon the Effective Date, the Cottonwood Creek Ranch Loan (defined above) and  
2 the Accumulated Deficiency Claim shall not be deemed cross-defaulted, and RBC may not  
3 declare a default under one of such obligations based upon a default under the other obligation.

4           As of the Effective Date, the Accumulated Deficiency Claim shall be fully due and  
5 payable on or before 24 months following the Effective Date, unless earlier accelerated due to a  
6 default in the minimum monthly payments or other default under the loan documents, except that  
7 neither (i) the "belief the prospect of payment of the indebtedness is impaired," nor (ii) the future  
8 death, insolvency, lawsuit against and/or bankruptcy of any of Debtor's general partners shall  
9 constitute an "event of default" under the governing loan documents.

10           Upon the Effective Date, the exclusive remedy for collection of the Accumulated  
11 Deficiency Claim shall be exercise of the non-judicial trustee's sale procedure established under  
12 the deeds of trust and California law. Upon the Effective Date, Bank shall be deemed to have  
13 waived the right to bring a judicial foreclosure action to collect the Accumulated Deficiency  
14 Claim, and additionally waived the right to proceed individually against the general partners of  
15 BR Enterprises to collect all or any portion of the Accumulated Deficiency Claim.

16           In the event RBC does not timely receive the minimum monthly payments  
17 required on account of the Accumulated Deficiency Claim following the Confirmation Date, or in  
18 the event the Accumulated Deficiency Claim is not paid in full within 24 months following the  
19 Effective Date, Bank shall provide to BR Enterprises and its then counsel of record, if any, via  
20 first class mail and e-mail, a written notice of default and demand for cure. In the event the  
21 defaults identified in such written notice are not fully cured within 20 calendar days following the  
22 date such notice is sent, RBC may immediately and without further notice record notice of default  
23 against the collateral for the Accumulated Deficiency Claim and otherwise proceed to foreclose  
24 on such collateral in accordance with California law and this Plan of Reorganization.

25           In the event that on or after 20 months following the Effective Date Debtor has not  
26 entered into a bona fide purchase and sale agreement providing for a sale of the real property for  
27 the Accumulated Deficiency Claim in an amount sufficient to payoff in full the then-remaining  
28 balance of the Accumulated Deficiency Claim on or before 24 months following the Effective

1 Date, and an escrow for consummation of such proposed sale has not been opened and remains  
 2 open, RBC may, without further notice, record notice of default against the collateral for the  
 3 Accumulated Deficiency Claim and otherwise proceed to foreclose on such collateral in  
 4 accordance with California law and this Plan of Reorganization, except that no such foreclosure  
 5 sale shall be scheduled or held earlier than 24 months following the Effective Date.

6 In the event Debtor desires to sell a portion of the real property collateral securing  
 7 the Accumulated Deficiency Claim, and the projected net proceeds of such sale shall not be  
 8 sufficient to pay off in full the then-balance of the Accumulated Deficiency Claim, Debtor and  
 9 RBC shall negotiate in good faith in an attempt to agree upon a "release price" or other terms and  
 10 conditions to allow the contemplated sale to be effectuated without adversely affecting Bank's  
 11 prospect of payment in full of the Accumulated Deficiency Claim within the time frame and other  
 12 terms and conditions established by this Plan of Reorganization.

13 Debtor and RBC agree to execute and deliver to each other such other documents  
 14 as may be reasonably required to document or perfect the terms and conditions of this Plan of  
 15 Reorganization and the treatment of Claim No. 8 and the Accumulated Deficiency Claim,  
 16 including without limitation, a "Change In Terms Agreement" to be prepared by RBC.  
 17 Notwithstanding such, it is not the intention of Debtor nor RBC to re-document the entire  
 18 relationship between the parties.

19 In the event of any discrepancy or conflict with regard to the treatment of Claim  
 20 No. 8 or the Accumulated Deficiency Claim between this Section 6.02.02 and any other terms  
 21 and conditions of the Plan of Reorganization, this Section 6.02.02 shall control.

22 **6.03 Class 2 (Allowed Secured Claim of Central Valley Community Bank)**

23 Class 2 consists of the Allowed Secured Claim of Central Valley Community Bank  
 24 ("CVCB" or "Class 2 Claimant"). Class 2 Claimant is impaired.

25 Class 2 Claimant shall have an Allowed Secured Claim as of the Petition Date of  
 26 \$1,813,268.83, consisting of \$1,772,366.73 in principal and \$14,474.32 in interest (@ 5.25%)  
 27 plus actual attorneys fees and costs incurred by Class 2 Claimant not to exceed \$12,500, late  
 28 charges of \$5,948.19, foreclosure fees of \$5,229.59, and appraisal fees of \$2,750. From the  
 Petition Date through the Confirmation Date, the principal portion of the Allowed Class 2

1 Secured Claim shall accrue interest at the simple rate of 5.25%. As of the Confirmation Date, all  
 2 then-outstanding principal, pre-petition interest, post-petition interest, and attorneys fees shall be  
 3 consolidated, and the resulting consolidated balance (hereinafter referenced as the "Allowed  
 4 Class 2 Claim") shall be amortized over thirty years and accrue interest at the fixed simple rate of  
 5 5.25% per annum until paid in full. Interest-only payments (estimated in the projections attached  
 6 to Disclosure Statement at @\$8,340/month) shall be paid to Class 2 Claimant on the first day of  
 7 the full month following the Confirmation Date, and on the first day of each month thereafter  
 8 until paid in full.

9 The Allowed Class 2 Claim shall mature and be due and payable in full on the first  
 10 full day of the twenty fourth (24<sup>th</sup>) month following the Effective Date from the net proceeds  
 11 generated from either the sale or refinancing of all or a portion of its real property collateral as  
 12 described at paragraph 11.05 of the Disclosure Statement as the so-called "Main House" which  
 13 sits on approximately 14 acres on the Ranch (APN 004-140-72) (the "CVCB Collateral"). Class  
 14 2 Claimant shall rescind its Notice of Default as soon as possible after the Confirmation Date.

15 Pending the payment in full of Allowed Class 2 Claim, Class 2 Claimant shall  
 16 retain all existing liens against the CVCB Collateral in the order and priority such lien(s) existed  
 17 as of the Petition Date. In addition to the foregoing, Debtor shall take all necessary and  
 18 reasonable steps required to maintain and preserve the CVCB Collateral and Debtor shall make  
 19 the following adequate protection payments to or for the benefit of Class 2 Claimant: (1) timely  
 20 payment of all real property taxes assessed against the CVCB Collateral as such taxes are due and  
 21 payable, and (2) monthly interest payments as provided for above.

22 Upon payment in full of the Allowed Class 2 Claim, Class 2 Claimant shall  
 23 irrevocably release – and shall be deemed automatically and for all purposes to have irrevocably  
 24 released - any and all right, title, interest in and claims and/or liens it has or may have (known or  
 25 unknown) against the CVCB Collateral.

#### 26 **6.04 Class 3 (Allowed Secured Claim of Joe & Lavone Curto Family Trust)**

27 Class 3 consists of the Allowed Secured Claim of Joe & Lavone Curto Family Trust (the  
 28 "Trust" or "Class 3 Claimant"). Class 3 Claimant is unimpaired as on October 19, 2015, Class 3  
 Claimant was paid in full through the Court-approved sale of the collateral (75085 Inverness  
 Drive in Indian Wells, California (APN #633-720-015-5)) securing their claim. Class 3 Claimant  
 shall receive no further distribution in this case.

1           **6.05    Class 4(a) (Tehama County Tax Collector)**

2           Class 4(a) consists of the Allowed Secured Claim of the Tehama County Tax Collector  
 3 ("TCTC" or "Class 4(a) Claimant") on account of real property taxes assessed against the Real  
 4 Estate. According to Debtor's records, all real property taxes were paid current through June 30,  
 5 2015 as of the Petition Date. Class 4(a) Claimant shall retain all statutory lien rights arising under  
 6 applicable nonbankruptcy law, and Debtor shall continue to pay timely all real property taxes and  
 7 assessments in the ordinary course of business as such taxes become due and payable. This Class  
 8 4(a) Claimant is *not* impaired.

9           **6.06    Class 4(b) (Riverside County Tax Collector)**

10          Class 4(b) consists of the Allowed Secured Claim of the Riverside County Tax Collector  
 11 ("TCTC" or "Class 4(b) Claimant") on account of real property taxes assessed against the Real  
 12 Estate. On October 19, 2015, Class 4(b) Claimant was paid in full through the Court-approved  
 13 sale of the collateral (75085 Inverness Drive in Indian Wells, California (APN #633-720-015-5))  
 14 securing its claim. This Class 4(b) Claimant is *not* impaired and shall receive no further  
 15 distribution in this case.

16          **6.07    Class 5 (Hank Spacone, Trustee of Shasta Enterprises Chapter 11 Case)**

17  
 18          Class 5 consists of the disputed contingent claim (the "Class 5 Claim") filed on June 25, 2015, by  
 19 Hank Spacone in his capacity of Chapter 11 Trustee of Shasta Enterprises, a California  
 20 partnership ("Class 5 Claimant"), as such claim may be amended from time to time. This Claim  
 21 is impaired.

22               The Class 5 Claim shall be deemed an Allowed Unsecured Claim in such amount  
 23 (the "Class 5 Allowed Unsecured Claim") and at such time, if ever, that Class 5 Claimant obtains  
 24 a final judgment against Debtor on the Class 5 Claim in an adversary proceeding filed in the  
 25 Shasta Enterprises case ("Shasta Chapter 11") or similar action (the "Shasta Clawback Action").

26               If the Class 5 Claimant has filed the Shasta Clawback Action and dividends are  
 27 payable to Debtor on the BR Claim (as defined below) in the Shasta Chapter 11 prior to  
 28 resolution of the Shasta Clawback Action, and except as otherwise ordered by the Bankruptcy  
 Court, the Class 5 Claimant shall withhold from any dividend then payable to Debtor in the

Shasta Chapter 11, and deposit in an interest bearing, federally insured, blocked account (the "Blocked Account"), an amount equivalent to one hundred and ten percent (110%) of the maximum claim asserted by Class 5 Claimant in good faith against Debtor in the Shasta Clawback Action, pending a final judgment or resolution. Once the Blocked Account is funded, all other distributions due on the BR Claim shall be made to Debtor. If the Shasta Clawback Action is resolved in favor of the Class 5 Claimant, either by final judgment or other final resolution, the Blocked Account balance up to the amount of the judgment shall be released to the Class 5 Claimant. . Any difference between the balance in the Blocked Account and the Class 5 Allowed Unsecured Claim shall upon final resolution of the Shasta Clawback Action in favor of the Class 5 Claimant be immediately distributed to Debtor on account of Debtor's claim against Shasta Enterprises, which consists of its originally scheduled claim of \$2,857,267, plus approximately \$350,000 loaned to Shasta Enterprises post-petition (see "Order on Motion for Authority to Assume Executory Contract and for Post-Petition Borrowing" filed January 7, 2015 in Case #2014-30833 as Doc#176) (the "BR Claim").<sup>1</sup> All rights of Debtor to file an amended claim as a result of payment of the judgment and to receive further distributions shall be governed by the Code and other applicable law. In the event there is a deficiency owing to the Class 5 Claimant by Debtor in excess of the funds in the Blocked Account, such deficiency shall be treated and paid as a Class 6 General Unsecured Claim, except that in addition to such rights, the Class 5 Claimant may apply any future dividends otherwise due on the BR Claim to such deficiency until it is satisfied. If final judgment or resolution is in favor of Debtor in the Shasta Clawback Action, the Blocked Account shall be released to Debtor.

During any time that the Shasta Clawback Action is pending or has resulted in final judgment or other resolution in favor of the Class 5 Claimant that remains unsatisfied, and no dividend is otherwise payable to Debtor on the BR Claim in the Shasta Chapter 11, the Class 5 Claimant shall be entitled to all of the rights and benefits of Code section 502(d), including treating the BR claim as disallowed until the judgment against Debtor is satisfied. Under such circumstances, the Allowed Class 5 Claim shall be treated and paid as a Class 6 General Unsecured Claim.

Nothing in this or any other provision of this Plan shall restrict the Debtor's ability

<sup>1</sup> As Debtor notes at Article VI (page 12, line 23.5) of the Disclosure Statement, Debtor claims the amount owed is \$4,213,869.65 as of the Shasta Enterprises Petition Date. Class 5 Claimant's vote in favor of plan treatment does not constitute an admission of the amount owed or the allowance of such claim amount.



1 post-confirmation to enter into an agreement with the Class 5 Claimant for subordination or other  
 2 specially negotiated treatment of the BR Claim in the Shasta Chapter 11.

3  
 4 **6.08 Class 6(a) (Allowed Unsecured Convenience Class Creditors)**

5 Class 6(a) consists of creditors whose claims total less than \$2,500.00 or who voluntarily  
 6 reduce their claims to \$2,500.00 ("Class 6(a) Allowed Unsecured Convenience Claims). These  
 7 claims shall be paid in full by the Debtor by on the Effective Date No interest or other fees or  
 8 charges shall accrue post-petition on account of any Class 6(a) Allowed Unsecured Convenience  
 9 Claims. Debtor estimates that Class 6(a) Allowed Unsecured Convenience Claims amount to  
 10 \$945 as follows:

- 11 • Southern California Edison Company (\$277.34 – Claim #2)
- 12 • VESTRA Resources, Inc. (\$667.28 – Claim #3)

13 This Class 6(a) is unimpaired.

14 **6.09 Class 6(b) (General Unsecured Creditors)**

15 Class 6(b) consists of all Allowed Unsecured Claims not treated in any other  
 16 Class, including any deficiency claims of holders of Allowed Secured Claims. This Class is  
 17 impaired. Debtor estimates that Class 6(b) Unsecured Claims amount to approximately \$125,000  
 18 as follows:

- 19 • Antonio Rodriguez III (\$125,000 – Scheduled);

20  
 21 Class 6(b) Allowed Unsecured Claims shall be paid *pro rata* by the Debtor from  
 22 available funds in the Creditors' Account on a semi-annual basis to the extent funds are available  
 23 for such purpose as more specifically provided at Article VIII of the Plan. In no event shall Class  
 24 6(b) Creditors receive more or less than one hundred percent (100%) of their Allowed Claims  
 25 under the terms of this Plan. Interest shall accrue on all Class 6(b) Allowed Unsecured Claims,  
 beginning on the Effective Date, at the simple rate of seven percent per annum until paid in full.

26 Pro-rata distributions shall be made to or on account of Class 6(b) Allowed  
 27 Unsecured Claims as soon as practicable, but in no event prior to such time that all  
 28 Administrative Claims and Unclassified Claims referenced at Article II of the Plan have been

1 liquidated and paid in full, and so long as at the time of such distribution(s), Debtor has a  
2 sufficient reserve of Net Income to fund its business operations and to timely make all other  
3 payments required under the Plan.

#### 4           **6.10 Class 7 (Equity)**

5  
6           Class 7 consists of all interests of Debtor's General Partners, Antonio Rodriguez  
7 Jr. and Managing Partner Antonio Rodriguez III (the "Class 7 Members") in the Debtor. The  
8 Class 7 Members are unimpaired and shall retain all interests in Debtor notwithstanding  
9 confirmation of this Plan and/or Debtor's discharge, but shall receive no distribution on their  
10 respective capital accounts except after full payment of all Allowed Unsecured Claims.  
11 Notwithstanding the foregoing, to the extent practicable, Debtor may set aside and pay to the  
12 appropriate taxing authorities on behalf of the Class 7 members funds from any unencumbered  
13 net sale proceeds to cover taxes owed by Class 7 Members as a direct result of such sale(s). At  
14 the expiration of the Plan Term or, if earlier, the entry of Debtor's Discharge, any and all right, title,  
15 interests and/or claims of Creditors in (1) Debtor's Real Estate, (2) the Creditor Account, (3)  
16 property of the estate (revested or otherwise), and (4) any and all other real or personal property  
17 assets of the Debtor, including income from any source, existing as of the end of the Plan Term,  
18 whether or not held for the benefit of creditors, shall terminate and/or revert to Debtor, free and  
19 clear of such claims and/or interests (excluding only consensual deeds of trust). Debtor reserves all  
20 rights and claims against the Class 7 Members, including but not limited to rights and claims,  
21 whether legal or equitable, including claims for contribution and indemnity.

### 22           **Article VII**

#### 23           **Event of Default**

24           7.01 Except to the extent otherwise provided in this Plan, in the event Debtor fails to  
25 perform any material obligation called for under the Plan with respect to a particular Claimant  
26 and/or Claim, and if Debtor fails to cure the default within twenty (20) calendar days of the  
27 receipt of a written notice of the default from such affected Claimant, that Claimant may  
28 immediately pursue such remedies as against the affected Claim(s) as are permitted with  
reference to applicable State and/or Federal law, subject only to any limitations set forth in this  
Plan, without further notice or Court order.



- 7.03 Except to the extent otherwise provided in this Plan, notwithstanding the foregoing, an event of default occurring with respect to one Class or Subclass shall not be considered an event of default with respect to any other Class or Subclass.

### Execution and Implementation of the Plan

8.02 Management of Accounts: At all times following the Confirmation Date, Debtor shall continue to maintain and manage all of its business affairs and accounts, and shall retain its current interest bearing, federally insured depository account(s) (the "Creditors' Account"), which shall be funded, managed and controlled by Debtor, and from which payments to creditors shall be made. Restrictions upon the disbursement of disputed or disallowed claims is governed by Article XVII, paragraph 17.2, below.

### **Disallowance of Claims/Retention of Property**

**DEBTOR'S THIRD AMENDED CHAPTER 11 PLAN OF REORGANIZATION [11/23/2015]**

1 the same constitute part of an Allowed Claim, until the creditor or professional seeking to recover  
2 said fees from the Debtor, or the Estate has or have had such fees approved as "reasonable" or  
3 otherwise properly payable by the Bankruptcy Court. Such approval must be made through a  
4 motion for the recovery of same made on no less than twenty-eight (28) days' written notice to  
5 the Debtor, any Unsecured Creditors' Committee, and the Office of the United States Trustee.  
6 Any professional fees or default interest, late penalties or similar charges claimed after the  
7 Petition Date but prior to the Confirmation Date claimed by a creditor of the estate as  
8 compensable by the Debtor or the Estate which have not been asserted through the above  
9 procedure within sixty (60) days after the Confirmation Date shall be deemed barred without  
further notice or order.

10 9.02 Notwithstanding anything contained herein, the Debtor shall have the right to  
11 request the Court to disallow any claims of any person from which property is recoverable under  
12 section 541, 542, 543, 550, or 553 of Title 11 or that is a transferee of a transfer avoidable under  
13 section 544, 545, 547, 548, or 549 of Title 11 unless such Person or transferee has paid the  
14 amount, or turned over any such property for which such Person or transferee is liable.

15 9.03 Except as otherwise specifically provided herein, the Debtor shall retain all  
16 Property of the Estate including any rights under the avoidance actions, which shall become  
17 property of the reorganized Debtor. Professional fees incurred and funds borrowed by the Debtor  
18 to conduct its lawful financial and business affairs after the Confirmation Date need not be  
approved by the Bankruptcy Court as a condition to payment by the Debtor.

19 9.04 Except as otherwise agreed by the Debtor or ordered by this Court, Claims filed  
20 after the Bar Date shall be deemed automatically disallowed. Except provided in paragraph 6.02,  
21 below, all objections to Claims shall be filed within twelve (12) months after the Effective Date  
22 (the "Claims Objection Bar Date"), unless the Debtor obtains an extension of this deadline  
23 through a noticed motion. If a party has timely filed an objection to a Claim, the party who filed  
24 the objection and the holder of the disputed Claim may enter into a written settlement agreement  
25 to compromise such Claim, which agreement, when filed with the Bankruptcy Court, will  
26 constitute allowance of the Claim in the compromised status and amount. The payment of any  
27 Claim or any portion thereof by or on behalf of the Debtor and/or Disbursing Agent shall not be  
28 deemed a waiver of the right to subsequently object to all or a portion of the Claim and seek  
turnover of monies improvidently paid.

## Article X

10 The Debtor, as the proponent of this Chapter 11 Plan, hereby requests pursuant to  
11 Section 1129(b) of the Code, that this Court find that the provisions of this Plan provide fair and  
12 equitable treatment to and do not unfairly discriminate against those Claimants and interest  
13 holders who are impaired under the Plan and who elect not to accept the Plan, and that this Court  
14 confirm the Plan under the so-called “cram-down” provisions of the Plan pursuant to 11 U.S.C.  
§1129(b) notwithstanding the requirement of Section 1129(a)(8) as to such Claimants.

### **Conditions Precedent to Distributions Under the Plan**

11.01 Any Creditor otherwise entitled to a distribution shall execute and deliver to the Debtor or join in the execution or delivery of any instrument necessary for consummation of the Plan. Nothing herein shall be construed to prevent or preclude any creditor from contesting the Plan, and Debtor shall not withhold any distribution to any creditor solely because such creditor participated in the Plan confirmation process.

- 24 -

1  
2 contemplates and which would have occurred during the period of noncompliance with any  
3 turnover judgment. Notwithstanding the foregoing, nothing contained herein shall limit any right  
4 of the Debtor to enforce any judgment of the Court.

5 11.03 Debtor does not anticipate at this time prosecuting avoidance actions through the  
6 Plan. Nonetheless, Debtor reserves the right to prosecute any claim or cause of action, including  
7 but not limited to any avoidance actions and, in the event any such reserved claim is prosecuted,  
8 as a condition to participation in distributions under the Plan, any Person against whom any  
9 judgment has been entered shall immediately satisfy and/or otherwise comply with the judgment.  
10 No Person shall have any right to participate in distributions under the Plan until such Person  
11 satisfied the judgment, and such Person shall forfeit any rights to distributions which the Plan  
12 contemplates and which would have occurred during the period of noncompliance with any  
13 judgment.

## 14 Article XII

### 15 General Provisions

16 12.01 Unclaimed Funds/Distributions. Unclaimed distributions, if any, remaining as of  
17 the end of the Plan Term will be deposited into the Court's "Unclaimed Funds Account."  
18 Separate checks shall be delivered to the Clerk of Court, made payable to "Clerk, U.S.  
19 Bankruptcy Court" with a reference to the entitled Claimant's name and the bankruptcy case  
20 number.

21 12.02 Post-Confirmation Payment of Professionals. All professionals, including but not  
22 limited to attorneys, accountants and brokers providing post-confirmation services to Debtor shall  
23 submit periodic, detailed invoices to Debtor. Debtor is authorized to pay such periodic invoices  
24 without further order of the Court.

25 12.03 Post-Petition Borrowing from Insiders. Nothing herein prevents Debtor from  
26 borrowing funds, including all or a portion of the funds required to fund this Plan, so long as any  
27 loan is memorialized by a written promissory note.

## 28 Article XIII

### Modification of Plan

13.01 Modification of this Plan shall be governed by the provisions of Bankruptcy Code  
Section 1127.

1 **Article XIV**

2 **Executory Contracts**

3  
4 14.01 As of the Effective Date, Debtor assumes (to the extent they constitute assumable  
5 executory contracts under applicable law) all of the executory contracts and unexpired leases  
6 described in Debtor's Schedule "G" *with the exception of any brokerage agreements or*  
7 *relationships which were not expressly approved by the Debtor following authorization by the*  
8 *Bankruptcy Court after the Petition Date.* As to each executory contract that is assumed herein,  
9 any monetary defaults will be cured as a condition to assumption and paid as a Non-Classified  
Claims in accordance with Article II above.

10 14.02 Except for the executory contracts set forth immediately above or that are subject  
11 to prior orders in the Chapter 11 Case for assumption or rejection pursuant to Section 365 of the  
12 Bankruptcy Code, Debtor hereby rejects all executory contracts and unexpired leases to which  
13 they were a party – or are deemed to have been a party to – as of the Petition Date. Except as  
14 otherwise permitted by law, all claims arising from the rejection of executory contracts and/or  
15 unexpired leases must be filed with the Court within thirty (30) days of the Effective Date or shall  
be barred.

16 **Article XV**

17 **Effect of Confirmation**

18 15.01 Except as otherwise provided in the Plan or in the confirmation order, Debtor shall  
19 be discharged pursuant to Section 1141 of the Bankruptcy Code, effective as of the earlier of the  
20 last day of the Plan Term or the date the last payment required under the Plan is made. The  
21 discharge shall be effective as to all Claims regardless of whether a Claim was filed or scheduled,  
22 and/or whether the Claim is an Allowed Claim or whether the holder of the Claim votes to accept  
23 the Plan. The automatic stay of Section 362 of the Bankruptcy Code shall remain in effect until  
24 the case is closed or dismissed, or until the discharge becomes effective. Upon Confirmation,  
25 subject to any restrictions in this Plan including but not limited to paragraph 2.1 (i.e., providing  
26 that "Debtor shall pay the remaining unpaid amount of any Administrative Claim in full prior to  
27 or concurrently with the close of escrow of the sale, refinancing or encumbering of any of  
28 Debtor's Real Estate"), Debtor may conduct its lawful business and financial affairs, including  
but not limited to the compromise of claims, the borrowing of funds on either a secured or

1 unsecured basis, and/or the liquidation of all or a portion of the Property of the Estate, without  
 2 restrictions or further Court approval and, except as expressly provided in the Plan, the  
 3 obligations to all creditors will be conclusively deemed current and all incidences of default shall  
 4 be conclusively deemed cured retroactive to any default so cured.

5 15.02 Except as otherwise expressly stated in this Plan, from and after the Confirmation  
 6 Date all loan documents, trust deeds and other contracts documenting claims against the Debtor  
 7 shall be deemed modified, superseded, and/or extinguished completely, as the case may be, by,  
 8 according to, and/or consistent with the terms of the Plan, without the need for any further action  
 9 by Debtor. After the Confirmation Date, Claims shall be paid only in accordance with the Plan.

10 15.03 Confirmation of the plan shall not act or serve to ratify any violation of any  
 11 injunction, including the automatic stay and/or the injunction referenced at Bankruptcy Rule  
 12 7062, against property of the estate by creditors of this estate.

13 15.04 Pursuant to Section 1142(a), notwithstanding any other applicable non-bankruptcy  
 14 law, rule or regulation relating to financial condition, Debtor is authorized to take any and all  
 15 lawful action necessary to carry out the terms of the Plan. Moreover, all claimants holding liens  
 16 on the Debtor's assets shall execute or deliver, or to join in the execution or delivery, of any  
 17 instrument or other document required to effect a transfer of property dealt with by the Plan, and  
 18 to perform any other act, including the satisfaction of any lien that is necessary for the  
 19 consummation of the Plan. To the extent that any lienholder fails to comply with this provision,  
 20 in addition to any other remedies available under this Plan or applicable law, the Debtor may seek  
 21 an order from the Bankruptcy Court, on an expedited basis, compelling compliance with this  
 22 provision, and during that time period encompassed by this compliance, no payments shall be  
 23 made to the noncomplying Creditor and no interest on the noncomplying creditor's claim shall  
 24 accrue under the Plan, and any such Creditor shall be responsible for all costs and damages  
 25 incurred by the Debtor as a result of such Creditor's noncompliance with this provision.

26 15.05 Except as otherwise provided herein, all assets and Property of the Estate shall vest  
 27 in the Debtor as of the Confirmation Date in accordance with Section 1141(b). The  
 28 characterization of such assets or property as being held as separate or community property or  
 otherwise under applicable State law shall not be affected as a result of confirmation of the Plan.

## Article XVI

### Retention of Jurisdiction

1 The Court shall retain jurisdiction of this Chapter 11 case until this Plan has been fully  
2 consummated, pursuant to and for the purposes set forth in the Code, and specifically for the  
3 purpose of:

4 16.01 Classification of the Claim of any Creditor in the reexamination of Claims which  
5 have been allowed for the purposes of voting for the determination of such objections as may be  
6 filed to Creditor's Claims. The failure by the Debtor to object to or examine any claim for the  
7 purpose of voting shall not be deemed to be a waiver of Debtor's right to object to or reexamine  
8 the Claim in whole or in part, nor shall the payment of any claim or any portion thereof be  
9 deemed a waiver to subsequently object to all or a portion of the claim and seek turnover of  
monies improvidently paid.

10 16.02 The allowance of compensation or other administrative expenses incurred prior to  
11 the Confirmation Date.

12 16.03 To hear and determine the allowance and/or amount of Allowed Claims and/or  
13 adjustments thereto, including but not limited to, claims concerning state, local, and federal taxes  
14 pursuant to sections 346, 505, 525, and 1146 of the Bankruptcy Code.

15 16.04 To hear and determine any action or proceeding brought by Debtor under  
16 sections 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code,  
17 whether such action or proceeding is brought before or after the Effective Date. The Debtor's  
right to prosecute such actions is expressly reserved herein.

18 16.05 To hear and determine all actions and proceedings which relate to pre-  
19 confirmation matters brought by the Debtor whether such action or proceeding is brought before  
20 or after the Effective Date.

21 16.06 The determination of any issues relating to the assumption or rejection of  
22 executory contracts and unexpired leases including the assumption or rejection of executory  
contracts or unexpired leases not expressly dealt with herein.

23 16.07 The correction of any defects, the curing of any omission, or the reconciliation of  
24 any inconsistency of this Plan or in the Order of Confirmation as may be necessary to carry out  
25 the purposes and intent of this Plan.

26 16.08 The modification of this Plan after confirmation pursuant to the Bankruptcy Rules  
and Title 11 of the United States Code.

27 16.09 The enforcement and interpretation of the terms of this Plan.  
28



### **Retention of Litigation Rights**

17.02 In the event any matter, claim or interest is in controversy, including without limitation, administrative, priority, secured and/or unsecured claims, Debtor shall withhold payment of or on account of any claim directly and materially affected by the controversy until such time as the dispute has been resolved by nonappealable Final Order, except to the extent that a portion of any claim or controversy is allowed or conceded by Debtor, in which case the Disbursing Agent shall make a distribution on account of such allowed portion of the disputed claim in accordance with the terms of this Plan.

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**DEBTOR'S THIRD AMENDED CHAPTER 11 PLAN OF REORGANIZATION [11/23/2015]**



1 which agreement, when filed with the Bankruptcy Court, will have the effect of a Final Order as  
2 to the disposition of the settled controversy.

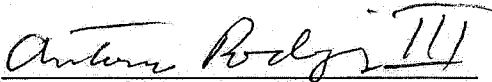
3 **Article XVIII**

4 **Postconfirmation Reporting and U.S. Trustee Quarterly Fees**

5 18.01 The Debtor shall continue to file with the Court a post-confirmation status report  
6 substantially the form attached hereto as Exhibit "A", and pay to the United States Trustee the  
7 quarterly fee required by 28 U.S.C. section 1930(a)(6), until this case is converted, dismissed, or  
8 closed. Reports for any given quarter shall be filed with the Court and served upon the United  
9 States Trustee not later than twenty (20) days after the expiration of the reported quarter.

10 Dated: November 23, 2015

11 BY:

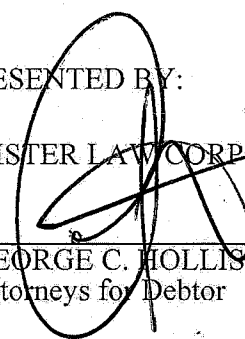


12 ANTONIO RODRIGUEZ III,  
13 Managing Partner, BR Enterprises, A  
California General Partnership

14 REPRESENTED BY:

15 HOLLISTER LAW CORPORATION

16 By:

  
17 GEORGE C. HOLLISTER  
Attorneys for Debtor

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EXHIBIT "A"  
[POST-CONFIRMATION REPORT FORM]



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re:

Case No.

Chapter 11

QUARTERLY POST-CONFIRMATION  
REPORT FOR REORGANIZED DEBTOR



Debtor(s)

For the Quarter Ending:

The reorganized debtor hereby submits the following post-confirmation report for the above described calendar quarter:

1. Date of entry of order confirming plan: \_\_\_\_\_
2. Cash balance at the beginning of this quarter: \_\_\_\_\_  
 Total receipts during this quarter: \_\_\_\_\_  
 Total disbursements during this quarter: \_\_\_\_\_  
 Cash balance at the end of this quarter: \_\_\_\_\_
3. Payments made pursuant to the Plan this quarter: \_\_\_\_\_  
 Total payments to be made pursuant to the Plan: \_\_\_\_\_  
 Cumulative paid to date: \_\_\_\_\_  
 Balance remaining to be made under the Plan: \_\_\_\_\_

<sup>1/</sup> First report shall be filed for the portion of the calendar quarter from the date of confirmation to the end of the quarter. Subsequent reports shall be filed at the expiration of each calendar quarter thereafter until dismissal, conversion, or entry of a final decree closing the case. Reports shall be filed with the Court and served upon the United States Trustee not later than twenty (20) days after expiration of the reported period.

AS OF THE END OF THIS REPORTING PERIOD:

- |  | <u>Yes</u>               | <u>No</u>                |
|--|--------------------------|--------------------------|
| 4. Are all payments required by the confirmed plan current at this time?<br>[If 'NO', attach an explanatory statement identifying payments not made.<br>Include creditor, amount, due date, reason for non-payment <u>and</u><br>an estimated date when payments will be brought current.] | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Do you currently anticipate a circumstance/event which will cause an<br>interruption or cessation of payments or other performance under the<br>Plan? [If 'YES', attach an explanatory statement.]  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Have quarterly fees due to the United States Trustee as of the date of<br>this report been paid pursuant to 28 U.S.C. § 1930(a)(6)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Have all motions, contested matters and adversary proceedings been<br>fully resolved? [If 'NO', for each motion, contested matter or adversary<br>proceeding, attach a statement identifying the parties and nature of the<br>dispute and state the anticipated resolution.]            | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Has the order confirming the Plan become non-appealable?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Have deposits, if any, required by the Plan been distributed pursuant<br>to the Plan? [If 'NO', attach an explanatory statement.]   | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Has any property proposed by the Plan to be transferred been transferred<br>pursuant to the Plan?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Does any property remain to be transferred pursuant to the Plan?<br>[If 'YES', attach a statement identifying each property to be transferred<br>and the anticipated date of transfer pursuant to the Plan.]   | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Has the Reorganized Debtor(s) or the successor of the Debtor(s) assumed<br>the business or management of the property dealt with by the Plan?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Anticipated date of motion for final decree: _____   |                          |                          |

I declare under penalty of perjury that the statements set forth above are true and accurate.

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
Responsible Individual (signature)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Current Address:

\_\_\_\_\_  
Telephone Number: